

## SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

**August 16-20, 2004**

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-17	EX	76440933	Glaze, Inc.	Simms* Walters Bottorff	2(d)	Refusal Affirmed as to both cited registrations		"VALENCIA" [wristwatches]	<i>2 cited registrations, owned by different entities:</i> "VALENCIA" [pearl necklaces and other jewelry] and "VALENZIA COLLECTION" [diamond and gold jewelry, namely, tennis bracelets, earrings, necklaces, rings, charm slides and pendants]	Maciol	No
8-17	EX	74388732	Burnham Services, Inc.	Walters Chapman* Drost	2(d)	Refusal Affirmed		"BF" (in stylized design form) [metal foundry services, namely, preparing molds and shaping metal in the molds to the order and specification of others]	"BF" (and design) [semi finished steel products, namely, hot rolled coil steel, cold rolled coil steel, tube steel, pipe steel, plate steel, structural steel, galvanized and other treated coil steel, reinforcing bar steel and steel wire]	Alt	No
8-17	EX	76237565	Dorel Juvenile Group, Inc.	Simms Bottorff Rogers*	whether the matter applicant seeks to register functions as a mark for its recited goods or merely as informational matter	Refusal Affirmed		"BABY ON BOARD!" (and design) [plastic novelty signs]		Watson	No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) \*=Opinion Writer; (D)=Dissenting Panel Member

## SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

August 16-20, 2004 (continued)

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-17	EX EX	76342221 76342222	Fugitt Rubber & Supply Co., Inc.	Quinn* Holtzman Rogers	2(d); whether the identification of goods is sufficiently definite	Refusal Affirmed in both cases under 2(d); requirement for a more definite identification of goods reversed		“TEMPEST POWER” and “TEMPEST POWER UNIT” [both marks for: apparatus for generating power for use in lighting, heating, and other industrial uses, namely, a mobile source of electrical power for operating emergency lights, work lights, electric heaters, and electric power tools and a source for providing compressed air used to operate pneumatic hand tools and other types of pneumatic equipment, in commercial and industrial applications, <i>etc.</i> ; air compressors, namely, a source for providing compressed air used to operate pneumatic equipment, <i>etc.</i> ]	“TEMPEST” [industrial rotary screw air compressors and parts therefor]	McBride	No
8-17	EX	76335059	Palmer Asphalt Co.	Holtzman* Rogers Drost	2(d)	Refusal Affirmed		“DUREX” [asphalt and elastomeric coatings and cements, other than protective coatings applicable to various substrates for use as a lining or coating, all for roofing, waterproofing and damp proofing]	“DUR-X-LINE” [protective coatings applicable to various substrates for use as a lining or coating]	Le	No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) \*=Opinion Writer; (D)=Dissenting Panel Member

## SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

August 16-20, 2004 (continued)

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-17	CANC	92032516	Born Again Clothing, Inc. v. Richard C. Reilly	Chapman* Bucher Rogers	abandonment [partial cancellation of a two-class registration (in Class 25)]	Petition to Cancel registration as to Class 25 denied	"RILEY" (and design) [a line of vintage and used clothing]	"REILLY" (and design) [ <i>in Class 25: footwear, headwear, and clothing, namely, shirts, shorts, pants and jackets</i> ]			No
8-18	EX	76406829	Unichema Chemie BV	Seeherman* Hairston Bottorff	2(d)	Refusal Affirmed		"CLARUS" [chemicals for use in the manufacture of cosmetics, perfume, toiletries, and personal care products; chemical preparations for the attenuation of ultraviolet rays for use in the manufacture of toiletries, sun protection toiletries, and cosmetics]	"KLARUS" [sulfurized chemical additives for use in lubricants]	Souders	No
8-18	OPP (SJ)	91153683	Universal City Studios, LLLP v. Valen Brost	Hairston Walters Chapman [Opinion "By the Board" (Greenbaum)]	whether applicant used its mark in commerce prior to the filing date of its use-based application	Opposition Sustained (Opposer's motion for summary judgment granted)	"UNIVERSAL" and other marks incorporating the word "UNIVERSAL" [a variety of entertainment, communication, marketing and development services and products, including the licensing and sale of toys]	"UNIVERSAL TOYS" [toy rockets]			No
8-18	CANC	92040069	Ryan Takahashi v. Bradley Imports, Ltd.	Hohein* Bucher Bottorff	abandonment	Petition to Cancel Granted	"WESTSIDE" [ <i>a wide variety of clothing items</i> ]	"WEST SIDE" (and design) [ <i>a wide variety of men's, women's and children's clothing items</i> ]			No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) \*=Opinion Writer; (D)=Dissenting Panel Member

# SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

August 16-20, 2004 (continued)

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-18	OPP CANC	91123720 92031730	Synthes (U.S.A.) v. Cypress Medical Products, L.P.	Hairston Chapman Bottorff*	2(d)	Opposition Sustained; Petition to Cancel Granted	"SYNTHESE" [instruments and apparatus for surgical, medical, and veterinary purposes solely for bone surgery, namely, instruments and implants for osteosynthesis, including bone screws, bone nails, bone plates, and splints; injection needles, and gum plates; various accessory and ancillary goods, such as storage cabinets and trays, power tools used for bone surgery, etc.]	<i>in the opposition:</i> "SYNTHESIS PF" [disposable gloves for medical use] <i>in the cancellation:</i> "SYNTHESIS" [disposable gloves for medical use]			No
8-18	EX	76390088	Magnetic Ticket & Label Corp.	Seeherman* Quinn Holtzman	2(d); 2(e)(1); whether applicant's identification of goods is sufficiently definite	Refusal Affirmed under 2(d) and as to requirement for a more definite identification of goods; but refusal under 2(e)(1) reversed		"ZIPCARD" [card with activation control]	<i>2 cited registrations, owned by the same entity, both for the mark "ZIP CARD" [magnetically coded debit cards] and [credit and debit card services]</i>	Weimer	No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) \*=Opinion Writer; (D)=Dissenting Panel Member

## SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

August 16-20, 2004 (continued)

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-18	EX	76069661	St. Tropez, Inc.	Seeherman* Quinn Walters	2(d)	Refusal Affirmed		"ST. TROPEZ" (and design) [sun tan gel, sun tan lotion, sun tan oil, skin gels, sun screening preparations, sun tan accelerator products, skin and body creams and lotions, non-medicated skin and body balms]	"TROPÉZ" (in stylized form) [face powder, lipstick, mascara, rouge, eyeshadow, lip covering, lip gloss, liquid facial make-up, nail polish, nail hardener, nail polish remover, eyebrow pencils, <i>etc.</i> ]	Nadelman	No
8-19	EX	75667177	Nutrisoya Foods, Inc.	Simms Hairston* Rogers	2(d)	Refusal Affirmed		"NATUR-A" [processed food products, namely, non-alcoholic soybean-based beverages for use as a milk substitute]	"NATURA'S" (and design) [concentrate for use in the preparation of rice based food beverages]	Mullen	No
8-19	EX	76467958	Patents+ TMS, P.C.	Hairston* Walters Chapman	2(e)(1)	Refusal Reversed as to both classes of goods and services		"PATENT LETTER NEWS" [ <i>in Class 16</i> : intellectual property newsletter; <i>in Class 42</i> : providing information in the field of intellectual property via websites on global computer networks]		Stoides	No
8-19	EX	76422636	Koleaseco, Inc.	Simms* Hairston Bucher	2(d)	Refusal Affirmed		"EXCELLENCE IN ACTION" [transportation of freight by truck]	"EXCELLENCE IN MOTION" [freight transportation services by truck]	Fickes	No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) \*=Opinion Writer; (D)=Dissenting Panel Member